



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt resolution approving the master lease agreement between the City of Lodi and Lodi Grape Festival and National Wine Show Association for use of various festival ground facilities that will serve both indoor and outdoor recreational programs which will run for the period July 1, 2008 to June 30, 2009, at a lease rate of \$25,000 per year (PR)

**MEETING DATE:** June 18, 2008

**PREPARED BY:** Interim Parks and Recreation Director

**RECOMMENDED ACTION:** That the City Council adopts the attached resolution approving the master lease agreement between the City of Lodi and the Lodi Grape Festival and National Wine Show Association for use of various festival ground facilities for the period July 1, 2008, to June 30, 2009.

**BACKGROUND INFORMATION:** The Parks and Recreation Department has leased facilities from the Lodi Grape Festival and National Wine Show Association for over 40 years for various indoor and outdoor programs. The proposed agreement includes use of the Grape Pavilion, Cabernet Hall, and an area known as the soccer field. Management of the Lodi Grape Festival has also been quick to accommodate our needs when other space and/or facilities are required.

The term of the agreement is for one (1) year, commencing on July 1, 2008, and ending June 30, 2009. The term and conditions are consistent with those of the previous agreement. The annual lease payment has been established at \$25,000, a \$5,000 increase over the previous agreement. The Boosters of Boys and Girls Sports have agreed to fund \$2,500 of the increase. Increases in overhead have been cited by the Association as the main reason for the added costs.

Staff recommends approving the use agreement, which provides facilities for youth and adult basketball, soccer, and other miscellaneous programming. The City Attorney has approved the agreement as to form.

**FISCAL IMPACT:** The execution of the lease obligates the City to make annual payment.

**FUNDING AVAILABLE:** Account #346011.7321 - 2008-09 Recreation Administration Operating Budget: \$25,000

\_\_\_\_\_  
Kirk Evans, Budget Manager

\_\_\_\_\_  
Steve Dutra  
Interim Parks and Recreation Director

cc: City Attorney

**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

# **INTERIM USE RENTAL AGREEMENT** **LODI GRAPE FESTIVAL AND NATIONAL WINE SHOW FACILITIES**

THIS AGREEMENT made this 10<sup>th</sup> of April, 2008, at Lodi, County of San Joaquin, State of California, by and between the **LODI GRAPE FESTIVAL AND NATIONAL WINE SHOW, INC.**, a non-profit corporation, hereinafter called the Festival, and **CITY OF LODI** hereinafter called the Renter.

## **W I T N E S S E T H:**

1. Permission is hereby granted to the Renter to use the following described property of the Festival for a period beginning **JULY 1, 2008** and ending **JUNE 30, 2009** upon the conditions, agreements and terms hereinafter set out in this agreement and in attached Exhibit A.

2. The description of the premises of the Festival, located in Lodi, County of San Joaquin, State of California, permitted to be used is described as: **CABERNET HALL, THE EAST FIELD AND THE GRAPE PAVILION.**

3. Renter hereby agrees to pay the Festival for the use of said premises as follows: **\$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) FOR RENTAL OF FACILITIES AS OUTLINED IN ATTACHED EXHIBIT A.** Payable as follows: **\$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) DUE WITH RETURN OF SIGNED CONTRACT ON OR BEFORE JULY 1, 2008.**

**SEE EXHIBIT "A" ATTACHED, THE CONTENTS OF WHICH ARE MADE A PART OF THIS AGREEMENT BY REFERENCE AS THOUGH FULLY INCORPORATED HEREIN.**

4. Said premises shall be used for **PARKS AND RECREATION PROGRAMS** and for no other purpose without the written consent of the Festival first had and obtained. Renter agrees to comply with all ordinances, statutes, rules and regulations applicable to the conduct or operation of the activities of Renter herein permitted to be conducted. Renter shall provide adequate security to maintain order in and about the premises permitted to be used herein or to which necessary or expedient access has been granted at all times during the use of the premises herein permitted to the Renter. Renter shall not permit a breach of the peace or any unlawful act or omission by any person.

5. Renter agrees to maintain the premises herein permitted to be used and other portions of the premises of the Festival to which it, its employees, agents, licensees or any member of the public has access to by reason of this agreement in good condition, reasonable wear and tear, damage by the elements, act of God, or casualties beyond the control of Renter only excepted and Renter agrees to return said premises in the same condition as the premises were before use of the same was permitted hereunder, ordinary wear and tear, damage by the elements, acts of God, or casualties beyond the control of the Renter excepted. The Festival shall have the privilege of inspecting the premises covered by this agreement at any or all times.

6. Renter shall provide Festival with an original certificate of liability insurance with original signature, naming the **LODI GRAPE FESTIVAL AND NATIONAL WINE SHOW, INC., the COUNTY OF SAN JOAQUIN, the STATE OF CALIFORNIA, their AGENTS, DIRECTORS, OFFICERS, SERVANTS AND EMPLOYEES** as additional insured insofar as the operations under this agreement are concerned. The amounts of public liability coverage shall not be less than **\$1,000,000.00/\$1,000,000.00** and the amount of property damage coverage shall not be less than **\$1,000,000.00**, neither coverage to involve a deductible feature. Said certificates shall contain a statement by the insurance company that it will not cancel said policy or policies without giving 30 days prior written notice to the Festival.

7. This agreement shall not be assigned in whole or in part nor may any right hereunder granted to Renter be granted in turn to any person without the written consent of the Festival first had and obtained.

Initials: \_\_\_\_\_  
 Lodi Grape Festival

Initials: \_\_\_\_\_  
 City of Lodi, Schwabauer

Initials: \_\_\_\_\_  
 City of Lodi, Dutra

Initials: \_\_\_\_\_  
 City of Lodi, Johl

Initials: \_\_\_\_\_  
 City of Lodi, King

8. The Festival may terminate this agreement and be relieved of any further performance if Renter fails to perform any covenant herein contained at the time and in the manner herein provided, which said right shall be cumulative to any other legal right or remedy. Notwithstanding anything herein contained to the contrary, this agreement may be terminated and the provisions of this agreement may be altered, changed or amended, by mutual consent of the parties hereto.

9. The parties hereto agree that the Renter in the performance of this agreement shall be an independent contractor and shall not be an employee of the Festival.

10. Time is of the essence of each and all the provisions of this agreement and the provisions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

11. It is mutually understood and agreed that no alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on any of the parties hereto.

12. All safety orders of the Division of Industrial Safety, Department of Industrial Relations, must be strictly observed.

13. NOTICE, Pursuant to Sec. 107.6 Calif. Rev. & Tax Code. Renter recognizes and understands that this tenancy may create a possessory interest subject to property taxation and that the renter may be subject to the payment of property taxes levied on such interest.

14. Additional provisions, if any, and/or alterations to existing provisions contained herein, shall be attached to this agreement and marked "**EXHIBIT A**". Such attached sheets when properly signed by both parties become a part of this agreement and shall be binding upon the parties hereto.

**IN WITNESS WHEREOF**, this agreement has been executed in duplicate by and on behalf of the parties hereto, the day and year first above written.

**LODI GRAPE FESTIVAL  
NATIONAL WINE SHOW, INC.**  
P.O. BOX 848 ~ 413 E. LOCKEFORD ST.  
LODI, CA 95241  
(209) 369-2771

**CITY OF LODI, a municipal corporation**  
125 N. STOCKTON ST.  
LODI, CA 95240  
(209) 333-6800

BY: \_\_\_\_\_  
**MARK A. ARMSTRONG**  
**GENERAL MANAGER**

BY: \_\_\_\_\_  
**STEVE DUTRA**  
**DIRECTOR, PARKS & RECREATION**

BY: \_\_\_\_\_  
**BLAIR KING**  
**CITY MANAGER**

**APPROVE AS TO FORM:**

**ATTEST:**

BY: \_\_\_\_\_  
**D. STEPHEN SCHWABAUER**  
**CITY ATTORNEY**

BY: \_\_\_\_\_  
**RANDI JOHL**  
**CITY CLERK**

**EXHIBIT "A"**

1. Festival does hereby lease to Renter Cabernet Hall, the Grape Pavilion and the East Field for programs sponsored by and conducted under the supervision of the City of Lodi Parks and Recreation Department on the Lodi Grape Festival grounds situated in the City of Lodi, County of San Joaquin, State of California. Festival grants Renter the nonexclusive right to utilize necessary parking lot space and access routes to the buildings which are necessary to conduct its recreation program.

2. Renter's use is limited to the following:

**GRAPE PAVILION:**

Grape Pavilion shall be reserved for Renter's use approximately October 4, 2008 through March 17, 2009 unless other dates are established by mutual written agreement prior to October 1, 2008. The hours Renter may use the Pavilion shall be:

Monday through Friday	5 p.m. to 11 p.m.
Saturday	7 a.m. to 1 a.m. Sunday
Sunday	7 a.m. to 11 p.m.

*(Renter shall use the weekend schedule on legal holidays falling on weekdays.)*

Festival reserves the right to rent Pavilion for basketball practice Monday through Friday until 5 p.m. and Renter shall be pre-empted from the building Tuesday, February 3, 2009 through Tuesday, February 10, 2009. In the event Festival schedules use of the Pavilion to another user, that user or the Festival will immediately thereafter provide custodial care and/or maintenance of the Pavilion in order to return it to Renter in satisfactory condition for Renter's continued use.

**CABERNET HALL:**

Cabernet Hall shall be reserved for Renter's use from October 1, 2008 through August 15, 2009 on Monday through Thursday 4:30 p.m. to 11 p.m. Use of Cabernet Hall is reserved by the Festival on Fridays, Saturdays and Sundays, and on Tuesday, Wednesday and Thursday mornings in the third week of each month for use by San Joaquin County for surplus food distribution. Renter may request to Festival for special use on these days.

**EAST FIELD:**

The East Field shall be reserved for Renter's use from October 15, 2008 through April 15, 2009 on Monday through Friday from 5 p.m. to 11 p.m. Festival reserves the right to pre-empt Renter when other events may conflict. Renter will provide no less than one (1) portable restroom for its own use and will provide daily pickup of trash in the East Field area during the lease period.

3. It shall be the responsibility of the Renter to provide sufficient personnel to monitor crowd control, including policing of parking lot areas and grounds adjacent to the buildings to insure no disturbance of other Renters on the Festival grounds. Festival shall have the right to pre-empt usage of any facility when other facility renters will be in the immediate vicinity of the buildings. Festival will notify Renter in advance of these pre-empted dates.

4. Renter shall be diligent in turning out lights, turning off heaters and/or coolers and locking building doors and outside gates daily and nightly after each use. If this provision is not observed, Festival shall bill Renter for use of utilities beyond scheduled hours of use. Renter shall provide Festival with a complete list of personnel who are issued keys to Festival's facilities. Renter shall be billed \$50 (fifty dollars) for each key not returned to Festival at end of lease year.

Initials: \_\_\_\_\_  
Lodi Grape Festival

Initials: \_\_\_\_\_  
City of Lodi, Schwabauer

Initials: \_\_\_\_\_  
City of Lodi, Dutra

Initials: \_\_\_\_\_  
City of Lodi, Johl

Initials: \_\_\_\_\_  
City of Lodi, King

5. Renter agrees to provide adequate qualified supervision at all times when using any of Festival's facilities. Renter agrees to clean up all areas used, outside and inside, including parking areas, on a daily basis, and all areas of the buildings and grounds are to be kept free of papers, cups, cans, bottles and other debris deposited as a result of Renter's activities. Renter agrees to repair or replace, at its own expense, any and all damage to Festival's buildings, facilities, equipment and/or grounds caused by Renter's activities.

6. It is expressly agreed and understood that this lease is for the use of the Renter for its recreational programs and NO SUBLETTING or assignment of this lease is permitted unless otherwise approved by mutual written agreement. Any programs or activities other than the basketball program shall first be approved by Festival. Renter shall have concession rights for its events only and may operate a concession during all applicable events under this lease specifically granted to Renter. Concession shall comply with all health, fire and safety regulations, including no propane gas cooking inside the buildings.

7. Renter does hereby agree to indemnify, defend and save Festival free and harmless from any and all claims for loss, damage, injury or liability to persons or property that may arise during the time the Renter is using the buildings, facilities and grounds which arise from the acts or omissions of Renter, except for claims for loss, damage, injury or liability to persons or property which arise from the acts of Festival. For such claims the Festival does hereby agree to indemnify, defend and save Renter free and harmless. Renter agrees at all times during the continuance of this lease to maintain adequate public liability and property damage insurance covering its use, occupancy and operation of said premises. Such policy or policies shall carry a specific endorsement providing that the Festival, the County of San Joaquin, the State of California, and their agents, directors, officers, servants and employees are named as additional insureds and that such liability policy or policies are primary insurance as to any similar insurance carried by Festival. Renter shall furnish Festival with satisfactory proof of the carriage of insurance required by Festival, and there shall be a specific contractual liability assumed by Renter pursuant to this lease. Any policy of insurance required of Renter under this lease shall also contain an endorsement providing that at least thirty (30) days notice must be given in writing to Festival of any pending change in the limits of liability or of any cancellation or modification of the policy or policies.

In the event Renter is self-insured, Renter shall provide a certificate of self-insurance in a form satisfactory to Festival.

**LODI GRAPE FESTIVAL AND  
NATIONAL WINE SHOW ASSOCIATION, INC.**

**CITY OF LODI, a municipal  
corporation**

BY: \_\_\_\_\_  
**MARK A. ARMSTRONG  
GENERAL MANAGER**

BY: \_\_\_\_\_  
**STEVE DUTRA  
DIRECTOR, PARKS & RECREATION**

BY: \_\_\_\_\_  
**BLAIR KING  
CITY MANAGER**

**APPROVE AS TO FORM:**

**ATTEST:**

BY: \_\_\_\_\_  
**D. STEPHEN SCHWABAUER  
CITY ATTORNEY**

BY: \_\_\_\_\_  
**RANDI JOHL  
CITY CLERK**

RESOLUTION NO. 2008-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
MASTER LEASE AGREEMENT BETWEEN THE CITY OF LODI  
AND LODI GRAPE FESTIVAL AND NATIONAL WINE SHOW  
ASSOCIATION FOR VARIOUS RECREATIONAL PROGRAMS

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WHEREAS, the Parks and Recreation Department has leased facilities from the Lodi Grape Festival and National Wine Show Association for over 40 years for various indoor and outdoor programs; and

WHEREAS, this agreement allows the City use of various facilities at the Lodi Grape Festival; and

WHEREAS, the term of the agreement is for one (1) year, commencing on July 1, 2008, and ending June 30, 2009; and

WHEREAS, the annual lease payment has been established at \$25,000 with the Boosters of Boys and Girls Sports paying \$2,500 of this lease payment; and

WHEREAS, staff therefore recommends that the City Council approve the use agreement, which provides facilities for youth and adult basketball, soccer, and other miscellaneous programming.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the agreement between the City of Lodi and the Lodi Grape Festival and National Wine Show Association, for use of the Grape Pavilion, Cabernet Hall, and an area known as the soccer field for the period July 1, 2008, to June 30, 2009.

Dated: June 18, 2008

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I hereby certify that Resolution No. 2008-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 18, 2008, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk